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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,772	12/03/2001	Masaki Hayashi	111244	7806
25944	7590	03/30/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			GENCO, BRIAN C	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,772

Applicant(s)

HAYASHI ET AL.

Examiner

Brian C Genco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/01, 6/02</u> | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 5-15 are rejected under 35 U.S.C. 102(b) as being anticipated by (USPN 5,710,954 to Inoue).

In regards to claim 1 Inoue discloses an electronic still camera, comprising:

an image capturing element which captures an image of a photographic subject via a photographic lens, and which outputs the image of the photographic subject which has been captures as image data (e.g., column 20, lines 32-45; Fig. 17; column 22, lines 23-25);

a display device which displays an photographic subject image which has been converted into image data (e.g., LCD monitor 112; Fig. 17);

a display control circuit which, during photography, causes at least two photographic subject images based respectively upon said two sets of image data to be displayed upon said display device in different regions thereof (e.g., column 22, lines 40-53; Fig. 19);

storage device which stores at least two sets of image data having different image capture timings (e.g., there is inherently a storage device through elements 124 and 112 for the two sets of image data that are captured at different timings to be synthesized and displayed together as illustrated in Fig. 19).

In regards to claim 3 see column 22, lines 40-53 and Fig. 19.

In regards to claim 5 Inoue discloses an electronic still camera according to claim 1, further comprising:

a selection device which selects a recording mode, which upon shutter release actuation, a photographic subject image is captured and image data is recorded (e.g., column 22, lines 40-53), and a replay mode in which image data which has been recorded in recording mode is displayed upon said display device (e.g., column 22, lines 23-25; column 21, lines 60-62), wherein

if the recording mode is selected by said selection device, said display control circuit displays said at least two photographic subject images based respectively upon said two sets of image data upon said display device in different regions thereof (e.g., Fig. 19; column 22, lines 40-53).

In regards to claim 6 Inoue discloses an electronic still camera according to claim 5, further comprising:

a recording medium, separate from said storage device, upon which image data is recorded (e.g., image memory 111; Fig. 17), wherein

said recording medium records image data during the recording mode, and reads out image data which has been recorded during the replay mode (e.g., column 21, lines 60-62; column 22, lines 40-53).

In regards to claim 7 see LCD element 112 of Fig. 17.

In regards to claim 8 Inoue discloses an electronic still camera, comprising:

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an image capturing element which captures an image of a photographic subject via a photographic lens, and which outputs the image of the photographic subject which has been captures as image data (e.g., column 20, lines 32-45; Fig. 17; column 22, lines 23-25);

a display device which displays an photographic subject image which has been converted into image data (e.g., LCD monitor 112; Fig. 17);

a display control circuit which, during photography, provides a display upon said display device which is changeable over between a multi image display in which at least two photographic subject images based respectively upon said two sets of image data are displayed, and a single image display in which one or the other of said at least two photographic subject images based respectively upon said two sets of image data is displayed (e.g., column 22, lines 40-53);

storage device which stores at least two sets of image data having different image capture timings (e.g., there is inherently a storage device through elements 124 and 112 for the two sets of image data that are captured at different timings to be synthesized and displayed together as illustrated in Fig. 19).

In regards to claim 9 Inoue discloses an electronic still camera according to claim 8, further comprising:

a selection device which selects either the multi image display or the single image display (e.g., column 22, lines 40-53).

In regards to claim 10 Inoue discloses an electronic still camera according to claim 9, further comprising:

a time measurement circuit which times a time period during which the multi image display is performed, wherein

in a case that the multi image display is selected by said selection device, said display control circuit stops the multi image display and changes over to the single image display, when a predetermined time period after the multi image display has been selected has been timed by said time measurement circuit (e.g., column 22, lines 40-53).

In regards to claim 11 Inoue discloses an electronic still camera according to claim 9, further comprising:

a decision circuit which decides whether or not at least half press shutter release actuation has been performed (e.g., the decision circuit is inherent to the disclosure of column 22, lines 40-53 wherein the 1st release signal is a half press shutter release), wherein

in a case that the multi image display is selected by said selection device, said display control circuit stops the multi image display and changes over to the single image display, when it has been decided by said decision circuit that half press shutter release actuation has been performed (e.g., column 22, lines 40-53).

In regards to claims 12-15 see Examiner's notes on the rejections above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over (USPN 5,710,954 to Inoue).

In regards to claim 2 Inoue discloses an electronic still camera according to claim 1, further comprising:

an image size compression circuit which compresses an image size of image data for displaying a photographic subject image upon said display device (e.g., signal synthesizing unit 124; column 22, lines 16-19), wherein

said image size compression circuit compresses image sizes of said two sets of image data into two different sizes (e.g., Fig. 19).

Inoue does not explicitly disclose nor preclude that the image size compression circuit compresses the images into two different sizes while maintaining aspect ratios of the image sizes of said two sets of image data constant.

Examiner notes that it is extremely well known in the art to maintain the aspect ratio of images when changing the size of the image so as to prevent distorting the image. Official Notice is taken. Therefore it would have been obvious to one skilled in the art at the time of the invention to have maintained the aspect ratio of the images when compressing them into two different sizes so as to prevent distorting the image.

In regards to claim 4 see Fig. 19.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 571-272-7364 or by fax at 571-273-7364. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached at 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 29, 2005


TUAN HO
PRIMARY EXAMINER

Brian C Genco
Examiner
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